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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

FARIBA SEPEHRI,)	No. C 07-03847 RMW
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL CHERTOFF, Secretary;)	ANSWER
EMILIO T. GONZALEZ, Director of the)	
United States Citizenship and Immigration)	
Services; ROSEMARY MELVILLE,)	
District Director; FRANK SICILIANO,)	
Field Office Director Department of)	
Homeland Security; and ROBERT S.)	
MUELLER, Director of the Federal Bureau)	
of Investigation,)	
)	
Defendants.)	

The Defendants hereby submit their answer to Plaintiff's Original Complaint for Writ in the Nature of Mandamus.

1. Paragraph One consists of Plaintiff's characterization of this action, to which no responsive pleading is required; however, to the extent a responsive pleading is necessary, Defendants deny the allegation that they have improperly withheld action on the application for adjustment of status to her detriment.

PARTIES

2. Defendants admit the allegations in Paragraph Two.

ANSWER
 No. C 07-03847 RMW

3. Defendants admit the allegations in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four.

5. Defendants admit the allegations in Paragraph Five.

6. Defendants admit the allegations in Paragraph Six.

7. Defendants admit the allegations in Paragraph Seven.

JURISDICTION

8. Paragraph Eight consists of Plaintiff's allegations regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Eight.

INTRADISTRICT ASSIGNMENT

9. Paragraph Nine consists of Plaintiff's allegations regarding intradistrict assignment, to which no responsive pleading is required.

VENUE

10. Paragraph Ten consists of Plaintiff's allegations regarding venue, to which no responsive pleading is required. Defendants aver that unless specifically provided by law, aliens have no residence in the United States for venue purposes. To the extent a response is required, Defendants deny that venue is proper in this district.

EXHAUSTION OF REMEDIES

11. Defendants deny that Plaintiff has exhausted her administrative remedies. Defendants are without sufficient information to admit or deny Plaintiff's allegations that she has made numerous inquiries.

CAUSE OF ACTION

12. Defendants admit the allegations in Paragraph Twelve.

13. Defendants admit the allegations in Paragraph Thirteen.

14. Defendants admit that Plaintiff was scheduled for and attended an interview on June 16, 2004.

15. Defendants are without sufficient information to admit or deny the allegations in

Paragraph Fifteen.

16. Defendants deny the allegations in Paragraph Sixteen.

17. Defendants are without sufficient information to admit or deny the allegations in Paragraph Seventeen.

18. Defendants admit the allegations in Paragraph Eighteen.

19. Defendants are without sufficient information to admit or deny the allegations in Paragraph Nineteen.

20. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty.

21. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-One.

22. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-Two.

23. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-Three.

24. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-Four.

25. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-Five.

26. Defendants are without sufficient information to admit or deny the allegations in Paragraph Twenty-Six.

27. Defendants admit the allegations in Paragraph Twenty-Seven.

28. Defendants deny the allegations in Paragraph Twenty-Eight.

29. Defendants deny the allegations in Paragraph Twenty-Nine.

30. Defendants deny the allegations in Paragraph Thirty.

31. Defendants deny the allegations in Paragraph Thirty-One.

32. Defendants are without sufficient information to admit or deny the allegations in Paragraph Thirty-Two and subsections a - c.

33. Defendants are without sufficient information to admit or deny the allegations in Paragraph Thirty-Three.

PRAYER

34. Paragraph Thirty-Four of Plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this paragraph.

AFFIRMATIVE AND/OR OTHER DEFENSES

All allegations not here before specifically admitted or denied are hereby denied. For further and separate answer, Defendants allege as follows:

FIRST DEFENSE

The Court lacks jurisdiction over the subject matter of this action

SECOND DEFENSE

The Complaint fails to state a claim against the Defendants upon which relief can be granted.

THIRD DEFENSE

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

FOURTH DEFENSE

At all times alleged in the complaint, Defendants were acting with good faith, with justification, and pursuant to authority.

FIFTH DEFENSE

The Defendants are processing the application referred to in the Complaint to the extent possible at this time. Accordingly, no relief as prayed for is warranted.

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1 WHEREFORE, Defendants pray for relief as follows:

2 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's
3 Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief
4 as it deems just and proper under the circumstances.

5 Dated: October 5, 2007

Respectfully submitted,

6 SCOTT N. SCHOOLS
7 United States Attorney

8
9 /s/
MELANIE L. PROCTOR
10 Assistant United States Attorney
11 Attorneys for Defendants
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